



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/985,734 Confirmation No.: 4237
Applicant : Catherine A. HAALA
Filed : November 6, 2001
Title : NATIONAL IDENTIFICATION CARD SYSTEM AND
BIOMETRIC IDENTITY VERIFICATION METHOD FOR
NEGOTIATING TRANSACTIONS
TC/A.U. : 2131
Examiner : Ronald Baum
Docket No. : US 1295/01
Date : June 10, 2004

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TRANSMITTAL OF APPEAL BRIEF
AND
PETITION FOR EXTENSION OF TIME

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

1. Transmitted herewith, in triplicate, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on February 25, 2004.
2. Applicant claims small entity status.
3. Pursuant to 37 C.F.R. § 1.17(c), the fee for filing the Appeal Brief is \$165.00, which is enclosed.

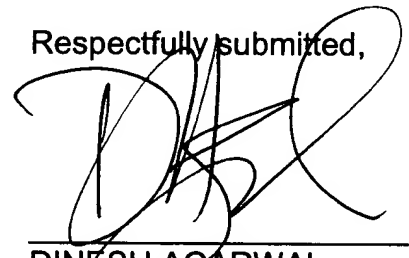
4. Applicant petitions for an extension of time under 37 C.F.R. § 1.136 for two (2) months, from April 25, 2004 to June 25, 2004, the fee of \$210.00 is enclosed.

5. A check for \$375.00 to cover the fee for filing the Appeal Brief (\$165.00), and the extension of time fee for two (2) months (\$210.00), is enclosed.

It is believed that no additional fee is due for this submission. However, should that determination be incorrect, the Commissioner is hereby authorized to charge any deficiencies, or credit any overpayment, to our Deposit Account No. 01-0433, and notify the undersigned in due course.

Should the Examiner have any questions or wish to discuss further this matter, please contact the undersigned at the telephone number provided below.

Respectfully submitted,



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APPEAL BRIEF

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I. REAL PARTY IN INTEREST

The real party in interest in this appeal is the inventor, Catherine A. Haala.

II. RELATED APPEALS AND INTERFERENCES

There are presently no appeals or interferences that would directly affect, or be directly affected by, or have a bearing on the Board's decision in the present appeal.

III. STATUS OF CLAIMS

Claims 1-20 were filed with the application on November 6, 2001. Claims 1-20 were amended, as reflected in the Amendment filed on September 12, 2003, responsive to the third non-final Office Action of April 15, 2003.¹ Accordingly, Claims 1-20 are presented herein on appeal and are reproduced in Appendix A attached hereto.

IV. STATUS OF AMENDMENTS

No Amendment under 37 CFR 1.116 was filed responsive to the Office Action (Final Rejection) of November 25, 2003.² Thus, Claims 1-20 in Appendix A read as the claims read in the Amendment filed on September 12, 2003.

¹ Both the first and second Office Actions of October 23, 2002 and April 4, 2003, were withdrawn by the Examiner. See the Interview Summaries for the interviews of December 10, 2002 and April 9, 2003, respectively.

² In the Interview Summary (attached to the Final Rejection) for the telephonic interview of May 22, 2003, the Examiner stated that "Mr. Agarwal was told that a formal response to the last office action was required as soon as
(continued..)

V. SUMMARY OF INVENTION

A. INTRODUCTION

The tragic events of September 11, 2001, led the present inventor, Catherine A. Haala, to devise the present national security method and system (page 4, paragraph [0006], lines 16-19 of the application). The invention is meant to function as a safeguard against terrorist or the like activities by preventing or obstructing a person from negotiating first and subsequent transactions, in the event an irregularity is found in the first transaction (page 5, paragraph [0007], lines 1-4 of the application). The **person**, in effect, becomes unable to function in a population, and is thus immobilized (page 5, paragraph [0009], lines 8-11, and page 6, paragraph [0013], lines 14-21 to page 7, lines 1-10 of the application).

The present invention is unique in that the **person** can no longer negotiate any transaction with anyone in the population, resulting in his/her complete immobilization.

The present invention is different from conventional systems in that it stops the person, not just a transaction with a particular card. In effect, it is the person's ability to conduct transactions that expires (until his/her card is revalidated) not just the card. The present system therefore compels those whose card has expired to return to authorities,

(²...continued)

possible, as the FAX he sent as of 5-5-2003 was insufficient in itself to continue." The Applicant notes herewith that Mr. Agarwal is a registered patent attorney fully familiar with the patent prosecution rules and regulations. The FAX was sent to SPE Gail Hayes on May 5, 2003, and resent to Examiner Baum on May 7, 2003, pursuant to a telephone conference with Examiner Baum on April 28, 2003.

The FAX included proposed revisions to Claim 1 for the Examiner's consideration to reach an agreement, if possible, in an effort to expedite prosecution. It was not intended that the FAX would take the place of a formal response to the Office Action of April 15, 2003.

instead of authorities tracking them down. Accordingly, the present invention has a particular utility in the area of immigration for tracking those who routinely disappear and stay in the country even though their visas have expired (page 20, paragraph [0045], and page 21, paragraph [0046], of the application).

B. METHOD

The present invention is directed to a national security method which functions as a prerequisite to a person wishing to negotiate a transaction with another person, group, or entity in a population and selectively obstructing the person from negotiating a transaction, wherein an identifying biometric characteristic and profile information of each person in the population of a country is stored in individual portable data devices to be carried by the respective persons (Figure 2 and page 15, paragraph [0033], lines 9-14, of the application).

Referring to Figures 3-5 of the application, under the claimed method, before a person can negotiate a transaction with another person, group, or entity in the population, his or her identity is **crosschecked** (page 17, paragraph [0039], lines 6-8, and step 64 in Figure 4) and **verified** (page 17, paragraph [0040], lines 12-15, and step 70 in Figure 4). Further, the **status or validity** of the data device carried by the person is checked (page 17, paragraph [0040], lines 19-22, and step 76 in Figure 4). If an unsuccessful result is obtained in **verification** or **crosschecking** steps, or the data device is determined to be

inactive, the person is obstructed or barred from negotiating the transaction (pages 17-18, paragraphs [0039] and [0040]. In other words, before a person can proceed to negotiate a transaction with another person, group, or entity in the population of a country, the identity of the person must be verified and crosschecked, and the validity of the data device carried by the person must be checked. If no unsuccessful result is obtained in the verification and crosschecking steps, and the data device is determined to be active, the person is allowed to proceed with the transaction. For example, if a person wishes to purchase an airline ticket, that person must first satisfy the verifying and crosschecking steps for checking the identity of the person, and the validity step for the data device carried by the person, before that person can proceed to purchase the airline ticket by tendering cash or by a credit card, or some other payment method. As a result, the claimed method functions as a prerequisite to conventional transaction systems where, for example, a credit card or other security card is used to obtain goods or services, or to gain access to a building or facility, (pages 6-7, paragraph [0013] and page 13, [0028] of the application).

Accordingly, if a person is obstructed from negotiating a transaction under the claimed method, that person cannot negotiate **any** further transaction with **anyone** in the population. This inability of that person to negotiate any transaction with anyone in the population, immobilizes that person as he/she becomes unable to function in a population (page 20, paragraph [0044] of the application). Since **everyone** in the population of a country is required to carry a portable data device under the present invention (page 15,

paragraph [0033] of the application), a person cannot function in the society if his or her identity cannot be verified or crosschecked, or if the data device is determined to be inactive.

C. SYSTEM

The present invention is further directed to a national security system S for obstructing a person from negotiating a transaction with another person, group, or entity in a population, wherein a national security card 10 is carried by each person in the population of a country (page 15, paragraph [0033], lines 9-14 of the application). The national security card 10 includes prestored profile information of a person carrying the card and an identifying biometric characteristic unique to that person (pages 15-16, paragraph [0035] of the application).

As shown in Figure 1, the system S includes a card reader 12 with a biometric scanner (see, for example, retinal scanner 20). The card reader 12 includes a processor 44 for comparing the biometric characteristic stored on the data card 10 with the biometric characteristic obtained directly from the person P for a successful or unsuccessful comparison. A remote computer 14 includes prestored profile information and an identifying biometric characteristic for each person in the population. A communication link 16 is provided between the card reader 12 and the remote computer 14. One of the processor 44 and the remote computer 14 compares the profile information and the

biometric characteristic stored on the national security card 10 with the profile information and the biometric characteristic prestored on the remote computer 14 for a successful or unsuccessful comparison. One of the card reader 12 and the remote computer 14 includes means for determining the active or inactive status of the national security card 10 and communicating the inactive status to a predetermined authority. The card reader 12 includes an active/inactive indicator 30 for indicating the status of the national security card 10.

The national security system of the invention **verifies** the identity of a person wishing to negotiate a transaction (see, for example, retinal scanner 20 in Figure 1), **crosschecks** the identity of the person (see, for example, remote computer 14 in Figure 1), and determines **active or inactive** status of the national security card (see, for example, card scanner 18 in Figure 1). If the national security card 10 is found to be inactive, that person is obstructed from negotiating **any** transaction with **any** person, group, or entity in the population. Consequently, if the national security card 10 carried by a person is determined to be inactive, that person can no longer function in the population and is therefore immobilized.

D. SUMMARY

The claimed method and system function as a prerequisite and obstruct a person from negotiating a transaction if that person's identity cannot be verified or crosschecked,

or if the data card carried by that person is determined to be inactive. The person so obstructed cannot negotiate **any** further transaction with **anyone** in the population of a country. Since the person cannot negotiate any transaction, that person cannot obtain any goods or services from another person, group, or entity in the population. For instance, an obstructed person would not even be able to purchase items of daily needs, such as gasoline, groceries, clothing, etc. The inability of the person to negotiate any transaction with anyone in the population **immobilizes** that person in the society as that person would be unable to survive in the absence of items of daily needs, as well as other items and/or services.

VI. ISSUES

1. Whether Claims 1-4, 11, 12, 14-15, 17 are patentable under 35 U.S.C. § 103(a) over "Pilot smartcard to roll out next year", Computimes Malaysia (8 October 1998) in view of Polansky, U.S. Patent Application Publication No. 2001/0045458, and further in view of "New System Speeds Travelers Through Immigration Points", The Oregonian, Oregonian Publishing Co., (May 25, 1997), and further in view of Hendry, Mike, Smart Card Security and Applications, Artech House, Inc., 1997, and further in view of "Towards a smartcard-using nation: [2* Edition]", New Straits Times (1 March 2000).

2. Whether Claims 5-10, 13, and 18-20 are patentable under 35 U.S.C. § 103(a) over Computimes Malaysia (8 October 1998) in view of Polansky, Oregonian and Hendry as applied to Claim 4, and further in view of Drexler et al. (U.S. Patent No. 5,457,747).

VII. GROUPING OF CLAIMS

Applicant respectfully states that the claims of any group of claims, presented here on appeal, do not stand or fall together. Each claim of each group is separately and independently patentable.

VIII. ARGUMENT

A. REJECTIONS UNDER 35 U.S.C. §§ 101 AND 112

The only rejections set forth by the Examiner in the Final Rejection are based on 35 U.S.C. § 103. Therefore, it is respectfully submitted that there are no issues under 35 U.S.C. §§ 101, 102 and 112. The only remaining issues are therefore whether the appealed Claims 1-20 are obvious in view of the prior art.

B. REJECTIONS UNDER 35 U.S.C. § 103

1. Claims 1-4, 11, 12, 14-15, 17 were rejected under 35 U.S.C. § 103(a) over "Pilot smartcard to roll out next year", Computimes Malaysia (8 October 1998) in view of Polansky, U.S. Patent Application Publication No. 2001/0045458, and further in view of "New System Speeds Travelers Through Immigration Points", The Oregonian, Oregonian

Publishing Co., (May 25, 1997), and further in view of Hendry, Mike, Smart Card Security and Applications, Artech House, Inc., 1997, and further in view of "Towards a smartcard-using nation: [2* Edition]", New Straits Times (1 March 2000).

APPLICABLE LAW

Section 103 of Title 35 of the United States Code provides in pertinent part as follows:

(a) a patent may not be obtained...if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Generally, obviousness under 35 U.S.C. §103 is a question of law determined based upon factual inquiries, including: (1) scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) secondary considerations. Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966). Obviousness may be based on the teachings of a single prior art reference or the combined teachings of several references.

The burden of proof in establishing obviousness is initially upon the Patent Office and the Applicant is not required to prove that the claims are non-obvious. 35 U.S.C. § 103 requires that the Examiner produce factual evidence that the claimed invention is prima facie obvious. In re Fine, 837 F.2d 1071, 5 USPQ 2d 1596 (Fed. Cir. 1988); Tec Air, Inc. v.

Denso Manufacturing Michigan, Inc., 52 USPQ2d 1294 (Fed. Cir. 1999).

In explaining the role of the Examiner in establishing a prima facie case of obviousness in the face of Applicant's evidence to the contrary, the court in In re Piasecki, stated that:

The concept of prima facie obviousness in ex parte, patent examination is but a procedural mechanism to allocate in an orderly way the burden of going forward and of persuasion as between the Examiner and the applicant. Its origin is uncertain, but its ancestry includes mechanisms which were called 'presumptions of unpatentability', such as those reflected in early chemical cases as In re Henze, 181 F.2d 196, 201, 85 USPQ 261, 265 (CCPA 1950). . . Clarification in other cases emphasized that the 'presumption of unpatentability' merely referred to an 'inference of fact'. As a basic rule of evidence, once an inference of fact is established the burden of persuasion shifts to the applicant, who in turn must produce evidentiary facts. All relevant facts are then considered in determining obviousness.

233 USPQ 785, 787-788 (Fed. Cir. 1984).

The initial burden of proving obviousness is a heavy one and can only be met by a showing of "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art which would lead that individual to combine the relevant teachings of the references." (emphasis added). In re Fine at 1074. The relevant inquiry is not what the decision-maker subjectively thinks is obvious, but what the prior art objectively teaches a person having ordinary skill in the art.

A prima facie finding of obviousness requires that the prior art references themselves provide a basis for the modification or combination, that those modifications will result in the claimed invention as a whole.

As the Federal Circuit has stated:

In holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in a way that would produce the claimed invention. When the patent invention is made by combining known components to achieve a new system, the prior art must provide a suggestion, or motivation to make such a combination. It is insufficient that the prior art disclosed the components of the patented device, either separately or used in other combinations; there must be some teaching, suggestion, or incentive to make the combination made by the inventor. (emphasis added) (citations omitted).

Karsten Manufacturing Corp v. Cleveland Golf Co., 242 F.3d 1376, 58 USPQ2d 1286 (Fed. Cir. 2001).

Such a suggestion need not be found in the references themselves. "It may come from knowledge of those skilled in the art that certain references, or disclosures in the references, are known to be of special interest or importance in the particular field....It may also come from the nature of a problem to be solved, leading inventors to look to references relating to possible solutions to that problem." Pro-Mold and Tool Co. v. Great Lakes Plastics, Inc., 75 F.3d 1568, 1573 (Fed. Cir. 1996). One must look to "what the references would *collectively suggest* to one of ordinary skill in the art." In re Ehrreich, 590 F.2d 902, 909 (CCPA 1979). In addition, the motivation in the prior art to combine the references need not be identical to that of the applicant to establish obviousness. In re Kemps, 97 F.3d 1427, 1430 (1996) (citing In re Dillon, 919 F.2d 688, 693 (Fed. Cir. 1990)

(in banc)), *abrogated on other grounds*, In re Gartside, 203 F.3d 1305 (Fed. Cir. 2000).

Further, a showing of a suggestion, teaching, or motivation to combine prior teaching must be clear and particular, and it must be supported by actual evidence. Teleflex Inc. v. Ficosa North Am. Corp., 299 F.3d 1313, 63 USPQ 1374 (Fed. Cir. 2002) and In re Dembiczak, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999).

In order to prevent the use of hindsight, the Federal Circuit has stated:

In order to prevent a hindsight-based obviousness analysis, we have clearly established that the relevant inquiry for determining the scope and content of the prior art is whether there is a reason, suggestion, or motivation in the prior art or elsewhere that would have led one of ordinary skill in the art to combine the references. (citation omitted).

Ruiz v. A.B. Chance Co., 234 F.3d 654, 57 USPQ2d 1161 (Fed. Cir. 2000).

In other words, the Applicant's disclosure may not be used "as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit". Green Processing Corp. v. American Maize-Products, 840 F.2d 902, 907 (Fed. Cir. 1988). In this regard, the Federal Circuit has stated:

[I]t is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious. . . This court has previously stated that '[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.'" (emphasis added).

In re Fritch, 23 USPQ2d 1780 (Fed. Cir. 1992).

In conclusion, “[o]bviousness can not be established by hindsight combination to produce the claimed invention...[I]t is the prior art itself, and not the applicant’s achievement, that must establish the obviousness of the combination.” In re Dance, 48 USPQ2d 1635 (Fed. Cir. 1998) (emphasis added). “[T]he motivation to combine references cannot come from the invention itself.” Heidelberger Druckmaschinen AG v. Hantscho Commercial Products, Inc., 30 USPQ2d 1377, 1380 (Fed. Cir. 1993).

Finally, objective evidence, such as teaching away from the invention or inoperability of modified references, should be given great weight in determining no obviousness. In re Gordon, at 733 F.2d 902 (Fed. Cir. 1984).

ANALYSIS

In support of his combination rejections of Claims 1-20 under 35 U.S.C. § 103, the Examiner cited a primary reference, Computimes Malaysia (hereinafter “Malaysia”), and five (5) secondary references to supply various deficiencies in the teachings of the primary reference. It is axiomatic that if any one of the secondary references is shown to be deficient in the teaching for which it is cited, or cannot be combined in the manner suggested under the law, the entire combination would fail.

Claims 1, 14 and 17

a. The Proposed Combination Fails to Teach or Suggest the Claimed Limitation

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In response to the third non-final Office Action of April 15, 2003, independent Claims 1, 14 and 17 were amended to recite that a data device or national security card (hereinafter "national security card") is to be carried by each person in the population of a country. See the Amendment filed on September 12, 2003.

In response, the Examiner admitted that "the Malaysian-Polansky-Oregonian-Hendry combination fails to teach [of] the mandatory use of the smartcard ID in the entire population." (emphasis added). (See the paragraph bridging pp. 6-7 of the Final Rejection - Paper No. 18). However, the Examiner cited a new reference to Wong, Teri, "Towards a smartcard-using nation: [2* Edition]", March 1, 2000, New Straits Times, Kuala Lumpur, pg. 08 (hereinafter "Malaysian 2") and rejected Claims 1-4, 11, 12, 14-15, and 17. The Examiner stated that Malaysian 2 discloses:

[T]he Malaysian multipurpose smart card (of the "Malaysia" reference above) including applications as *mandatory* (each person in the population of a country) including a national identity card (3rd full paragraph) and immigration card. (emphasis in original).

See page 7, ¶ 1 (full), of the Final Rejection (Paper No. 18).

Applicant respectfully disagrees.

It is submitted that Malaysian 2 states that "...this smartcard will replace the mandatory national identification cards that Malaysians age 12 years and above carry." (See page 2, ¶ 1 (full), of Malaysian 2). This does not cover the entire population, contrary to what is asserted by the Examiner. Therefore, Malaysian 2 is directed to a smartcard

which only a segment of the population (i.e., those 12 years of age and above) will be required to carry. Accordingly, Malaysian 2 is not directed to, nor teaches or suggests anywhere therein, that its smartcard is to be carried by each person in the population, as in the present invention. It is noted herewith that perhaps the Examiner has placed the wrong emphasis on the use of the term “mandatory” in Malaysian 2. The term “mandatory” in Malaysian 2 defines only those Malaysians who are 12 years of age and above, not everyone in the population. In other words, carrying of the smartcard will be mandatory, but only for those Malaysians who are 12 years and older.

Accordingly, it is respectfully submitted that Malaysian 2 does not satisfy the deficiency of Malaysia-Polansky-Oregonian-Hendry combination. Therefore, the combination of Malaysia-Polansky-Oregonian-Hendry-Malaysian 2 fails in its entirety under 35 U.S.C. § 103, and cannot render the claimed invention obvious.

b. The Examiner Failed to Establish Obviousness Under 35 U.S.C. § 103 and Resorted to Improper Use of Hindsight

The primary reference, Malaysia, discusses implementation of a national multi-purpose smartcard (MPC) which is optional for anyone wishing to use it for the purpose of convenience (see page 1, ¶ 4 from the bottom). In contrast, the present invention requires that the national security card be carried by each person in the population of a country. Therefore, any combination that includes the teachings of Malaysia would not result in the present invention. For this reason alone, the claimed invention is not obvious over the cited references. In this regard, it is noted that the references must be considered as a

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whole and individual parts of various prior art references cannot be picked and chosen “as a mosaic to recreate a facsimile of the claimed invention.” Akzo N.V. United States Int’l Trade Commission, 1 USPQ 2d 1241, 1246 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987).

Further, the Examiner admitted that Malaysia “does not disclose the specific details for implementing the smart card as part of the invention of Claim 1.” (emphasis added) and cited Polansky. See page 3, ¶ 3, of the Final Rejection.

Polansky (U.S. Patent Application Publication No. US 2001/0045458 A1) discloses a method and device for verifying an authorized user of a credit/identification card via Internet utilizing a biometric miniature autonomous fingerprint capture and verification system device. It is respectfully submitted that Polansky is not directed to providing a national security system or method, and there is no teaching or suggestion in Polansky that its card be carried by each person in the population of a country. Polansky’s card is merely directed to a credit/identification card “which is specifically related to Internet electronic commerce,” (emphasis added) (see paragraph [0003], lines 7-8 of Polansky). Further, Polansky’s system functions to reject the card (see paragraphs [0027], [0031], [0032] and [0033]). In contrast, the present invention functions to obstruct a person from negotiating a transaction, as it is a prerequisite to negotiating a transaction with another person, group, or entity in a population.

In other words, in the present invention, if the data device or card is determined to

be inactive, the person is barred from negotiating any transaction with any person, group, or entity in the population. Polansky, on the other hand, merely rejects the card, and therefore, prevents only those transactions that may be conducted by using that particular card. On the other hand, the present invention obstructs the person by barring all transactions with all the persons, groups, or entities in the population. Therefore, Polansky's teachings are completely different from the present invention.

With respect to the Applicant's argument that Polansky does not bar a person, the Examiner asserts that "the combination is what must address the invention (with the Malaysia, etc. 103 references)." See paragraph No. 27 of the Final Rejection.

It is respectfully submitted that where, as here, a secondary reference is different from the claimed invention, "[the] differences suggest some difficulty in showing a *prima facie* case of obviousness." In re Denis Rouffet et al., 149 F. 3d 1350, 1356, 47 USPQ 2d 1453 (Fed. Cir. 1998).

Moreover, it is respectfully submitted that there is no teaching or suggestion in Malaysia or Polansky to combine their teachings in the manner suggested by the Examiner³.

³ The Examiner has misinterpreted the Applicant's argument against the combination by stating that the "test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary references;" (emphasis added). See page 12, ¶ 3 of the Final Rejection under "Response to Arguments." Applicant was simply arguing against the combination under the law. In this regard, the Applicant notes the Examiner's recognition of the requirement for establishing (continued...)

As noted above, the PTO has the burden under § 103 to establish a prima facie case of obviousness. It can satisfy this burden only by showing some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art that would lead that individual to combine the relevant teachings of the references. In re Fine, supra. A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993).

As the Examiner admitted, Malaysia does not disclose the specific details for implementing the smartcard as part of the present invention. In other words, Malaysia merely discloses a naked concept without any details for implementing its national multi-purpose smartcard. Therefore, Malaysia is not enabling and cannot be used as reference. Reading & Bates Construction Co. v. Baker Energy Resources Corp., 748 F.2d 645, 223 USPQ 1168 (Fed. Cir. 1984).

Further, it is submitted that it is purely conjecture and improper use of hindsight that one of ordinary skill in the art would combine the teachings of Polansky with Malaysia. The Examiner has not provided any evidence in these references in support of the combination, absent the Applicant's invention. Malaysia is directed to a national multi-purpose card with applications such as national identity (ID) card, driving license, immigration and medical, and electronic cash, and Polansky is directed to a credit/identification card. Why one of

(³...continued) obviousness. See page 13, ¶ 1 (full), of the Final Rejection.

ordinary skill in the art would combine the teachings of Polansky, without improperly using the Applicant's invention as a template, is not shown.

A well-established principle of patent law is that the decision-maker is forbidden to "pick and choose among the individual elements of assorted prior art references to recreate the claimed invention". Smithkline Diagnostics v. Helena Laboratories Corp., 895 F.2d 878 (Fed Cir. 1988). The Federal Circuit in Smithkline stated:

A holding that combination claims are invalid merely upon finding similar elements in separate prior art patents would be 'contrary to statute and would defeat the congressional purpose in enacting Title 35'.

Rather, the proper analysis in an obviousness inquiry is of the claimed invention and the prior art teaching as a whole. The extraction of a particular feature from a prior art reference and excluding the overall teachings of a reference is clearly impermissible under the law. A prima facie finding of obviousness requires that the prior art references themselves provide a basis for the modification or combination, that those modifications will result in the claimed invention "as a whole".

It is submitted that in view of the lack of details in Malaysia, one of ordinary skill in the art would not be motivated, and may even be discouraged, to combine the teachings of the two references. This is particularly true since Malaysia is deficient in the specific details for implementing its national multi-purpose smartcard, and Polansky is merely directed to a credit card which also verifies the identity of an authorized user (see

paragraph [0003]). Further, as noted below, Malaysia's card teaches away from the present invention. Therefore, Malaysia and Polansky cannot be combined under the law, as suggested by the Examiner, to render the claimed invention obvious. In re Haruna, 249 F.3d 1327, 58 USPQ 1517 (Fed. Cir. 2001).

Accordingly, it is respectfully submitted that Polansky's system is different from the present invention, and further does not supply the deficiencies of Malaysia.

It is further respectfully submitted that the Malaysia-Polansky combination, even if combined, would not produce the claimed invention since as the Examiner himself admitted that combination fails to disclose obtaining the profile information from the user (steps g) and h) of Claims 1 and 14). See page 4, ¶ 1 (full) of the Final Rejection.

In view of the deficiency in the Malaysia-Polansky combination of obtaining the profile information directly from the user, the Examiner cited The Oregonian (hereinafter "Oregonian"), which discusses an automated system for speeding passengers through immigration checkpoints and spotting security threats at airports. Oregonian states that:

After the test period, travelers will be able to enroll in the Fastgate system through participating airlines or credit card companies. They will provide their names, addresses, dates of birth and passport numbers, and record their fingerprints or voice prints at the airport. After that, a passenger can insert a card into a biometric reader and answer a few questions on a touch screen. Fastgate will then retrieve the passenger's information from the IBM-managed database and compare the biometric information to verify identity.

Id. at page 1, ¶¶ 3 and 7.

The Examiner stated that “[t]he [Oregonian] system functions to require answers to questions to be stored in a central database.” (See page 4, ¶ 4, of the Final Rejection). It is submitted, however, that Oregonian merely states that a passenger answers a few questions on a touch screen after inserting a card into a biometric reader, after which Fastgate retrieves the passenger’s information from the IBM-managed database and compares the biometric information to verify identity. There is no teaching in Oregonian for requiring that the answers to questions be stored in a central database.

The Examiner further stated that “[a]fter entering biometric information, the user is asked the same questions, and those answers are compared to the central database.” (emphasis added) (see page 4, ¶ 4, of the Final Rejection). It is submitted that Oregonian merely states that a passenger answer a few questions. There is no teaching indicating that the user is asked the same questions.

In other words, it is not known, with any reliable certainty, from a reading of Oregonian, as to what information is initially provided by a traveler to enroll in the Fastgate system, what information is on the card, and what questions are to be answered by the traveler. For instance, Oregonian states that travelers will provide names, addresses, etc..., and record the fingerprints at the airport. Is this done during the enrollment phase or when the person is at the airport prior to taking a flight for travel? Oregonian further states that after a passenger inserts a card into a biometric reader and answers a few questions, its Fastgate system retrieves the passenger’s information from the database

and compares the biometric information to verify identity. It is not clear if the passenger's information includes profile information, biometric information, or both. It is submitted that obviousness cannot be predicated on what is unknown. In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993) and In re Newell, 891 F.2d 899, 13 USPQ2d 1248 (Fed. Cir. 1989). Accordingly, it is respectfully submitted that Oregonian is deficient in the teachings relied on by the Examiner and cannot be used in support of the suggested combination.

Further, it is submitted that the Fastgate system of Oregonian is very different from the claimed system. More specifically, as the Examiner admitted, Oregonian does not teach storing the profile information on the card itself (see page 4, ¶ 5, of the Final Rejection). In this regard, the Examiner stated that "as disclosed in Polansky, not only would the person of ordinary skill in the art have been concerned with authenticating the identification card user, but the identification card as well," (see page 4, ¶ 6, of the Final Rejection). Accordingly, the Examiner concluded that the profile information would be stored in a central database as well as on the card to be obtained from both these sources. Id. It is submitted that the Examiner has defined the problem facing the present inventor i.e., how to verify and crosscheck the identity of the user, with presumption of the solution. That is storing an identifying characteristic and profile information of the user at a central location as well as on the national security card. However, as the Federal Circuit has stated, "[d]efining the problem in terms of its solution reveals improper hindsight in the selection of the prior art relevant to obviousness. Monarch Knitting Machinery Corp. v.

Fukuhara Industrial & Trading Co., Ltd., 45 USPQ2d 1977, 1981 (Fed. Cir. 1998). See also In re Fritch and In re Rijckaert, supra.

It is therefore respectfully submitted that absent any teaching in the prior art, the suggested combination cannot be made without resorting to the improper use of hindsight. It is submitted that Oregonian is not concerned with authenticating the identification card, and Malaysia-Polansky are not concerned with obtaining profile information from the user. These differences alone suggest difficulty in a showing of obviousness. In re Denis Rouffet, supra. Further, as noted above, there is no teaching or suggestion in either of these references to combine in the manner suggested by the Examiner. Therefore, Malaysia, Polansky and Oregonian cannot be combined in the manner suggested by the Examiner.

The Examiner further concluded that "Polansky's teachings conform to steps a-g) and j) of Claim 1 of applicant's invention, while Oregonian teachings conforms to step h)." See page 5, ¶ 1 (full), of the Final Rejection. Applicant respectfully disagrees.

Step h) of Claim 1, for example, recites that the identifying characteristic and the profile information obtained from the portable data device carried by the person be compared with the profile information and biometric characteristic obtained directly from the person. As the Examiner himself admitted, Oregonian fails to teach storing the profile information on the card. Therefore, it is not understood by the Applicant how step h) of Claim 1 is satisfied by Oregonian.

Further, as the Examiner admitted in the first full paragraph, on page 4, of the Final Rejection, that the “Malaysia-Polansky combination fails to disclose obtaining the profile information from the user (step g) of the claimed invention.” (emphasis added). Further, step j) of Claim 1 recites obstructing a person if either steps f) or h) are not satisfied. Step h) recites comparing the identifying characteristic and the profile information obtained in steps e) and g). Therefore, it is not understood by the Applicant how Polansky’s teachings conform to steps a-g) and j) of Claim 1.

It is further respectfully submitted that participation in the Oregonian system is “purely voluntary.” (See page 1, ¶ 8). In other words, Oregonian does not require that a card be carried by each person in the population of a country. The Fastgate system of Oregonian is, therefore, optional, and available only through participating airlines or credit-card companies. On the other hand, the claimed invention requires that the national security card or portable data device be carried by each person in the population of a country.

As noted above, in an obviousness analysis based on a combination, the teachings of the references must be considered as a whole. The Examiner cannot pick and choose among the individual elements of assorted prior art references to recreate the claimed invention. See Smithkline Diagnostics, supra. As noted, participation in the Oregonian’s system is voluntary, while participation in the claimed invention is not. Therefore, Oregonian also teaches away from the claimed invention and cannot be combined with

Malaysia and Polansky to render the claimed invention obvious. Accordingly, it is respectfully submitted that Oregonian also does not supply the deficiencies of Malaysia and Polansky, and cannot be combined therewith to reject the claims.

The Examiner further admitted that the Malaysia, Polansky, and Oregonian combination fails to teach the use of determining an active or inactive status of the data device (see page 5, ¶ 3, of the Final Rejection). However, the Examiner cited Hendry for its blocking feature to make the smart card of the combination inactive if misuse were detected (see page 6, ¶ 1 (full), of the Final Rejection).

It is respectfully submitted that in the present invention an active or inactive status of the data device is determined in each instance of a person wishing to negotiate a transaction, not after a misuse is detected or a card has been reported to be lost or stolen. As the Examiner noted, if a stolen or misused card is detected in Hendry, the terminal or host computer system can set flags that will block either the application or the entire card. In addition, Hendry requires that a card be first lost or stolen, and then reported as such by the card holder in order for its system to block either the application or the entire card (see the section labeled "Detection" on page 138 of Hendry). In the event, the card holder does not report the loss, or in the case of misuse, the scheme operator must analyze incoming transactions to spot unusual patterns. This requires analysis by a scheme operator to determine if a card or the application should be blocked. Accordingly, Hendry requires a subjective analysis by a scheme operator to spot unusual patterns, or a precondition must

be satisfied, i.e., the card must have been known to be lost or stolen. No such subjective analysis by the operator or precondition is required in the present invention. In contrast, one of the purposes of the invention ~~is~~ to detect whether or not the data device or the card is stolen or being misused by a person other than the rightful holder by verifying and crosschecking the cardholder's identity, without requiring a notification of a loss of the card.

The teachings of Hendry are, therefore, completely different from the aspect of the present invention wherein the status of the data device is determined in each instance of a person wishing to negotiate a transaction. Accordingly, it is respectfully submitted that Hendry does not supply the deficiency of determining an active or inactive status of the data device, as suggested by the Examiner.

Further, it is respectfully submitted that Hendry does not necessarily block the entire card. In other words, Hendry blocks "either the application or the entire card." (See the section labeled "Block and unblock", on page 139 of Hendry). Therefore, if the entire card is not blocked, the user has the option to use the same card for other applications. No such option is allowed in the present invention. If the national security card of the present invention is found to be inactive, the person is barred from negotiating any transaction with any person, group, or entity in the population. Accordingly, it is respectfully submitted that Hendry does not supply the deficiencies of Malaysia, Polansky, and Oregonian.

The Examiner further asserted that:

[O]ne skilled in the art would have been motivated to block use of a counterfeit multipurpose card in other applications (i.e., drivers license and medical to prevent additional fraud. Hendry provides the obvious way to do so in the Malaysia-Polansky-Oregonian combination.

See page 6, ¶ 1 (full), of the Final Rejection.

As noted above, Hendry blocks either the application or the entire card only after a card has been reported lost or stolen, or is detected to be misused. The present invention, on the other hand, is directed to a national security method/system which functions as a prerequisite to a person wishing to negotiate a transaction with another person, group, or entity in a population, and obstructing the person from negotiating the transaction if, for example, the card carried by the person is found to be inactive. The determination of an active or inactive status of the data device is preformed in each instance of a person wishing to negotiate a transaction, not after a card has been reported to be lost or stolen, or is misused. Therefore, it is respectfully submitted that Hendry does not supply the deficiencies of Malaysia, Polansky, and Oregonian.

Finally, the Examiner asserted that:

[I]t would have been obvious to notify law enforcement authorities in the use of drivers license (e.g., a police officer) and immigration (e.g., INS official) if an invalid card were being used or if the comparisons set forth in Polansky fails. In fact, Polansky discloses rejection of the card, see Fig. 1.

See page 6, ¶ 2, of the Final Rejection.

The Examiner further asserted that “it would have been obvious to let an official using the Polansky system [know] that the card is rejected.” Id. Alternately, the Examiner argued that “rejection of the card is notification that at least the comparisons in the combination failed.” See page 6, ¶ 3, of the Final Rejection.

It is respectfully submitted that the present invention requires an affirmative step of notifying an appropriate authority if the status of the data device is determined to be inactive. It is not understood by the Applicant how or why it would have been obvious to notify law enforcement authorities involved in the use of driver’s license and immigration if an invalid card were being used or the comparisons set forth in Polansky failed.

Presently, to the Applicant’s knowledge, there exists no requirement that a police officer be called or notified if, for example, a person is found to be using an invalid or expired driver’s license in negotiating a transaction. Likewise, there exists no requirement that an INS official be called or notified if a person is found to be using an invalid card in negotiating a transaction. In fact, for a person to move about and negotiate transactions in the population of a country, such as U.S., the carrying of an INS-issued card is not even necessary, except in very limited instances. It is the non-existence of such requirement that the Applicant believes allowed the terrorists to engage in the September 11th activities that took more than three thousand lives. Accordingly, it is submitted that neither the record nor any knowledge in the prior art would lead an artisan in the art to the Examiner’s assertions. As noted below, the Federal Circuit in In re Zurko required that the PTO cannot

reach conclusions based on its own understanding or experience, or on its assessment of what would be base knowledge or common sense. Some concrete evidence in the record in support of the findings must be provided. If the Examiner insists on maintaining his assertions, however, he is respectfully requested to provide an affidavit or declaration setting forth the factual statements and explanation to support the finding, as required by 37 CFR § 1.104(d)(2) and MPEP § 2144.03(C).

The above demonstrates, *inter alia*, that Polansky, Oregonian, and Hendry i) are directed to systems that are completely different from the present invention, ii) are deficient in the teachings for which they are cited by the Examiner, and iii) do not support the Examiner's interpretation of their teachings. Further, Malaysia is merely directed to a general concept, and Malaysian 2 does not support the Examiner's interpretation. Therefore, a combination thereof, as suggested by the Examiner, cannot be made to reconstruct the present invention.

Further, even if *arguendo* a combination can be made in accordance with the Examiner's suggestion, such would completely lack in a national identification method or system under which each person in the population is required to carry a national security card, as in the present invention. None of the cited references, including Malaysian 2, teaches or suggests the carrying of a national security card, mandatory for each person in the population.

Even further, if a combination of the cited references can be made, as suggested by

the Examiner, such combination would not pass the legal muster.

As the Federal Circuit has stated:

'[V]irtually all [inventions] are combination of old elements.'
'Most, if not all, inventions are combinations and mostly of old elements. Therefore an Examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be 'an illogical and inappropriate process by which to determine patentability.'
(citations omitted).

See In Re Denis Rouffet at 1357. Also see Abbott Laboratories v. Syntron Bioresearch, Inc., 334 F. 3d 1343, 67 USPQ 2d 1337 (Fed. Cir. 2003) where the court held that knowledge in the prior art of every element of a patent claim is not of itself sufficient to render the claim obvious, and that the issue is whether substantial evidence supports the judgment (under the clear and convincing evidence standard) that a person of ordinary skill in the art would not have been motivated to replace the prior art combination with the claimed combination.

The Federal Circuit further stated:

To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the Examiner

must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. (emphasis added).

Id.

It appears that the Examiner has fallen victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher. A.B. Chance Company at 664.

In support of his combination, the Examiner asserted that “it is well known for INS officials to obtain profile information...” (page 4, ¶ 2, of the Final Rejection), “motivation exists to obtain profile information from a user...” (page 4, ¶ 3, of the Final Rejection), “means exist to obtain information from the user via an automated means (touch-screen data entry).” (page 4, ¶ 4, of the Final Rejection), “one of ordinary skill in the art would have been motivated to modify the Malaysia-Polansky combination to include Oregonian’s automated means for obtaining profile information from the user.” (page 4, ¶ 5, of the Final Rejection), “motivation exists for Polansky and Oregonian smart card and biometric system to be used as part of the multi-purpose smartcard of Malaysia’s immigration application system.” (page 5, ¶ 2, of the Final Rejection), “it would have been obvious for one of ordinary skill in the art to make use of blocking feature of Hendry to make the smart card of the combination inactive if misuse were detected.” (page 6, ¶ 1, of the Final Rejection), “Hendry provides the obvious way to do so in the Malaysia-Polansky-Oregonian

combination” (page 6, ¶ 1, of the Final Rejection), “[a]s per notification of authority the examiner asserts that it would have been obvious to notify law enforcement authorities... The examiner asserts that it would have been obvious to let an official using the Polansky system [know] that the card is rejected.” (page 6, ¶ 2, of the Final Rejection), and that “it would have been obvious for one of ordinary skill in the art to make use of the Malaysian 2 smartcard in the national security environment for all persons in the population of a country, as applied to the Malaysia-Polansky-Oregonian-Hendry combination.” (page 7, ¶ 2, of the Final Rejection). (Emphasis added in all previous citations).

The above-quoted statements indicate that the Examiner has merely engaged in identifying elements of the claimed invention in the prior art in an effort to reconstruct the invention, which is insufficient to support a rejection under Section 103. In re Abbott Laboratories, supra. The Examiner, however, did not explain what specific understanding or technological principle within the knowledge of one of ordinary skill in the art would have suggested or provided motivation for the combination, other than taking improper official notices or making broad, unsupported conclusory statements. The case law makes it clear that “the best defense against hindsight-based obviousness analysis is the rigorous application of the requirement for a showing of a teaching or motivation to combine the prior art references.” Ecolochem Inc. v. Southern California Edison Co., 227 F.3d 1361, 56 USPQ 2d 1065 (Fed. Cir. 2000).

It is submitted that the Examiner’s assertions, such as that “motivation exists” and

"means exist" absent explanation of any specific understanding or technological principle within the knowledge of a skilled artisan in the art, without more, other than his own beliefs, clearly would lead this Board to conclude that the Examiner selected these references with the assistance of hindsight, which is improper and forbidden. Applicant therefore respectfully submits that the Examiner did not show a proper *prima facie* case of obviousness. In re Denis Rouffet at 1357.

Further, the Examiner's assertions suggest that the present invention is no more than a combination of known elements and is therefore obvious. Such is not the legal standard, however. It is submitted that "[a] patentable invention, within the ambit of 35 U.S.C. § 103, may result even if the inventor has, in effect, merely combined features, old in the art, for their known purpose, without producing anything beyond the results inherent in their use. In re Spinnoble, 405 F2d 578, 56 CCPA 823 (1969).

In this regard, it is submitted that the present inventor has probed into the strengths and weaknesses of the prior art and devised an improvement that escaped those who came before is indicative of unobviousness, not obviousness. Fromson v. Aniteck Printing Plates, Inc., 45 USPQ 2d 1269, 1276 (Fed. Cir. 1997), cert. denied, 525 U.S. 817 (1998).

In other words, no one, prior to the present inventor, even considered to devise a national security method or system which functions as a prerequisite to a person wishing to negotiate a transaction with another person, group, or entity in a population, wherein each person in the population is required to carry a national security card. If the person is

obstructed from negotiating a transaction under the claimed method or system, that person can no longer negotiate any transaction with anyone in the population. This inability of that person to negotiate any transaction with anyone in the population immobilizes that person in the population. None of the references cited by the Examiner are either concerned with, or even remotely teach or suggest such method or system. It is submitted that since the elements noted by the Examiner, lay about in the prior art available for years to all those skilled in the art, without suggesting anything like the present invention, that is itself evidence of nonobviousness. A.B. Chance Company at 666.

In paragraphs 28-31 of the Final Rejection, the Examiner asserts repeatedly that the details in combination is what must address the invention, in response to the Applicant's argument concerning the failure of the references to provide sufficient details. It is respectfully submitted that it is well-settled law that the references that do not provide sufficient details or do not teach or suggest what is being relied on, cannot be used to make a proper rejection under the law. Reading & Bates Construction Co., In re Rijckaert, and In re Newell, supra.

The Examiner further asserts that one cannot show nonobviousness by attacking references individually where the rejections are based on combination of references, in response to the Applicant's arguments against the references individually. Again, the Examiner has misinterpreted the Applicant's submission of arguments. The Applicant has discussed the references individually for their teachings and interpretations relied on by the

Examiner, and whether there is a teaching or suggestion to combine them under the law. The Applicant is not arguing the nonobviousness of the invention based on a single reference, as was done in In re Keller, cited by the Examiner.

The Examiner further cites In re McLaughlin and asserts that “any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning.”, in response to the Applicant’s argument against improper use of hindsight. It is submitted that the Applicant’s argument is that the Examiner has engaged in improper use of hindsight in reconstructing the invention by knowledge gleaned only from the Applicant’s disclosure. As noted above, none of the prior art references is either directed to devising a system to curb terrorist or the like activities, or teaches or suggests a system that requires the carrying of a national security card by everyone in the population of a country. In addition, none of the prior art references teaches or suggests, or provides motivation for making the combination proposed by the Examiner. Absent such prior art disclosures, one can only conclude that the Examiner’s reconstruction was based on an improper use of hindsight.

Claim 14

With respect to Claim 14, the Examiner asserted that:

[I]t would have been obvious that blocking one application would not necessarily result in blocking of others (e.g., blocking of the POS application does not mean that the user should be prohibited from using the ATM). Hendry provides the suggestion for blocking by application. (emphasis added).

See page 8, paragraph No.14, of the Final Rejection.

The Examiner's position appears to be that the Malaysia, Polansky, Oregonian, and Hendry combination teaches that if a person is obstructed from negotiating a transaction in one application, that does not necessarily result in that person from being obstructed to negotiate another transaction in another application.

It is submitted that in view of the Examiner's position, Claim 14 is clearly nonobvious.

In the present invention, a person obstructed from negotiating a first transaction is obstructed from negotiating a second or subsequent transaction with another person, group, or entity in a population if his or her identity fails to be verified or crosschecked, or if the data card carried by that person is inactive. In other words, if a person has been obstructed in negotiating a first transaction in one application, that person under Claim 14 of the present invention, would be obstructed from negotiating a second or subsequent transaction if his or her identity cannot be verified or crosschecked, or if the data card has been found to be inactive, just as in the first transaction. Stated another way, if a person has been obstructed from negotiating a first transaction, that person would necessarily be obstructed from negotiating a second or subsequent transaction, whether the second or subsequent transaction is the same or different application, because the present method functions as a prerequisite to a second or subsequent transaction. In other words, different

criteria for authentication for different applications, such as ATM, credit card, e-commerce, POS, medical, immigration and driver's license, as noted by the Examiner, are irrelevant because a person wishing to negotiate a transaction is first validated by following the claimed method, and then proceeds to negotiate the transaction itself, for example, ATM, immigration, etc. Thus, if a person cannot be validated in accordance with the steps of the claimed method, that person does not proceed to the second step of negotiating the transaction itself at which point any criteria for the transaction, such as ATM, might become relevant. However, the claimed method is directed to the first prerequisite step in negotiating the transaction. Therefore, a person obstructed by the claimed method would be barred from negotiating any transaction with anyone in the population.

As the Examiner asserted, the Malaysia, Polansky, Oregonian, and Hendry combination would not necessarily result in blocking one application in blocking of others, which is opposite to the claimed invention. Therefore, it is respectfully submitted that the Malaysia, Polansky, Oregonian, and Hendry combination is completely different from and teaches away from the method of Claim 14. Accordingly, it is submitted that Claim 14 is not obvious over Malaysia, Polansky, Oregonian, and Hendry. In re Gurley, infra.

Claim 17

With respect to Claim 17, it is respectfully submitted that none of the references of record are directed to a national security system where a national security card is carried by each person in the population of a country. As noted above, Malaysia and Oregonian

cards are optional or voluntary, and Polansky merely discloses a financial card. Hendry, on the other hand, requires pre-notification or detection that the card is stolen, lost, or being misused. As noted above, the combination suggested by the Examiner cannot be made, without a teaching or suggestion for such, in the absence of the Applicant's disclosure; and, even if made, would not result in the present invention. Therefore, it is submitted that Claim 17 is not obvious over the cited references.

In view of the above, it is respectfully submitted that the Examiner failed to establish a *prima facie* case of obviousness and resorted to improper use of hindsight.

c. The Examiner's Proposed Combination Teaches Away from the Claimed Invention

The Examiner has relied on five (5) secondary references to supply the deficiencies of the primary reference - Malaysia - to make the combination. It is well-established law that a reference that teaches away from the claimed invention, cannot be relied upon to support a combination rejection under 35 U.S.C. § 103. In re Gurley, 31 USPQ 2d 1130 (Fed. Cir.1994). Therefore, if a reference is shown to teach away from the claimed invention, the entire combination would fail. Winner International Royalty Corp. v. Wang, 202 F.3d 1340, 53 USPQ 2d 1580 (Fed. Cir. 2000).

As noted above, the implementation of the smartcard of Malaysia is optional for anyone wishing to use it for the purpose of convenience (see page 1, ¶ 4 from the bottom). Likewise, participation in Oregonian System is purely voluntary (see page 1, ¶ 5, of

Oregonian). On the other hand, the smartcard of Malaysian 2 is stated to be mandatory, but only for those Malaysians who are 12 years of age and older.

In contrast, the present invention requires that the national security card be carried by each person in the population of a country.

The concerns and objectives of Malaysia, Malaysian 2, and Oregonian on one hand, and those of the present invention, on the other hand, are diametrically opposite. As a result, the steps/elements required to achieve these objectives are necessarily completely different. For example, the present invention functions as a prerequisite to each and every transaction that a person wishes to negotiate with another person, group, or entity in a population. This requires implementation of a system that is completely different from and opposite to a system which is optional, such as that of Malaysia, Malaysian 2, or Oregonian.

It is submitted that the Examiner, in making the suggested combination, did not consider the references in their entireties and selected only those components that seem to fit the combination. As noted by the Federal Circuit in Akzo, supra, this is improper.

In view of the above, it is respectfully submitted both Malaysia and Malaysian 2, and Oregonian teach away from the claimed invention, and cannot be relied upon to make the suggested combination, which fails. Accordingly, it is respectfully submitted that the present invention is not obvious over the cited references.

d. The Examiner Relied on Nonanalogous Art in Support of His Combination

It is respectfully submitted that at least Polansky, Oregonian and Hendry are from nonanalogous art.

As the Federal Court stated:

Two criteria have evolved for determining whether prior art is analogous: (1) whether the art is from the same field of endeavor, and (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved....A reference is reasonably pertinent if...it is one which, because of the matter with which it deals, logically would have commended itself to the inventor's attention in considering his problem....If a reference disclosure has the same purpose as the claimed invention, the reference relates to the same problem....[i]f it is directed to a different purpose, the inventor would accordingly have had less motivation or occasion to consider it. (emphasis added).

In re Clay, 23 USPQ 1058, 1060-61 (Fed. Cir. 1992).

The present invention is directed to providing a national security method or system, which would curtail, if not prevent, the occurrence of terrorist acts similar to those of the September 11th. The invention requires that each person in the population of a country carry a national security card, without which the person would not be able to negotiate a transaction with anyone in the country. In other words, the card is a prerequisite to negotiating each and every transaction, whether financial or non-financial, and whether for goods or for services.

Polansky

On the other hand, Polansky is directed to a financial card, i.e., credit/identification card, "which is specifically related to Internet electronic commerce," (emphasis added) (see paragraph [0003], lines 7-8, of Polansky). Polansky's card is neither prerequisite to each and every transaction, nor is directed to curtailing or preventing terrorist-type of activities. Further, as noted above, Polansky's card does not obstruct a person from negotiating a transaction, as the present invention, but merely rejects the card for its associated transaction. Therefore, it is submitted that Polansky is neither from the same field of endeavor, nor is directed to the same purpose, as the present invention.

Oregonian

Oregonian is directed to an automated system for speeding passengers through immigration checkpoints and spotting security threats at airports. However, Oregonian is not directed to curtailing or preventing terrorist-type of activities that could occur regardless of a person's status as a passenger at an airport. In addition, "'participation [in Oregonian system] is purely voluntary,'" (emphasis added) (see page 1, ¶ 5, of Oregonian). In contrast, participation in the system of the present invention is not. Moreover, Oregonian's system does not apply to all transactions, as does the present invention. Therefore, it is submitted that Oregonian is neither from the same field of endeavor, nor is directed to the same purpose, as the present invention.

Hendry

Hendry also is directed to a smartcard for use in financial transactions and not to a national security system to curtail or prevent terrorist-type of activities. Using or carrying Hendry's card by each person in the population of a country is not mandatory. In addition, Hendry merely "block[s] either the application or the entire card." (see page 139, ¶ 1 (full), titled "Block and unblock" of Hendry). In contrast, the present invention obstructs or stops a person from negotiating one and all subsequent transactions, regardless of the nature of the transaction. In other words, under the present invention, once a person is stopped from negotiating a transaction, that person would no longer be able to negotiate any subsequent transaction with anyone in the population. This results in that person being obstructed. No such result is either intended in Hendry, or can be obtained from using Hendry's card. The fields of endeavor of Hendry and the present invention are divergent, and completely different. Further, Hendry's purpose is authentication of its card, while the purpose of the present invention is authentication of the person. The two provide different problems. Therefore, it is submitted that Hendry is neither from the same field of endeavor, nor is directed to the same purpose, as the present invention.

In view of the above, it is respectfully submitted that Polansky, Oregonian, and Hendry are from nonanalogous arts. Accordingly, these references cannot be used to support a combination under 35 U.S.C. § 103 to reject the claims.

e. The Examiner's Reliance on Common Knowledge in the Art or "Well Known" Prior Art is Improper

In an attempt to fill a gap between the claimed invention (specifically, step g) of Claims 1 and 14) and the prior art, the Examiner asserted that:

[I]t is well known for INS officials to obtain profile information from passengers entering the United States to prevent criminals and illegal aliens from entering the country and official notice is taken of such.

See page 4, ¶ 2, of the Final Rejection.

The Examiner further asserted that:

[M]otivation exists to obtain profile information from a user in an automated as well as non-automated environment as the problem in both environments would be the same.

See page 4, ¶ 3, of the Final Rejection.

The Examiner admitted that the combination of Malaysia, Polansky, and Oregonian fails to teach the use of determining an active or inactive status of the smartcard, and asserted that it would have been obvious to one of ordinary skill in the art to make use of blocking feature of Hendry to make the smartcard of the combination inactive if misuse were detected. The Examiner stated:

Such misuse in the environment of immigration is illegal immigration using counterfeit identification. This misuse of the immigration system is well known and the examiner takes official notice of such.

See page 6, ¶ 1 (full), of the Final Rejection.

It is respectfully submitted that the Examiner has improperly substituted his own understanding for the evidence required under the law to support a rejection. As the MPEP states:

Any rejection based on assertions that a fact is well-known or is common knowledge in the art without documentary evidence to support the examiner's conclusion should be judiciously applied. Furthermore, as noted by the court in *Ahlert*, any facts so noticed should be notorious character and serve only to "fill in the gaps" in an insubstantial manner which might exist in the evidentiary showing made by the examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based. (emphasis added) (citations omitted).

See MPEP §2144.03 (E).

In this regard, the Federal Circuit in In re Zurko, 59 USPQ 2d 1693 (Fed. Cir. 2001) opined:

With respect to core factual findings in a determination of patentability, however, the Board cannot simply reach conclusions based on its own understanding or experience -- or on its assessment of what would be base knowledge or common sense. Rather, the Board must point to some **concrete evidence** in the record in support of the findings. (emphasis added).

Id. at 1697.

It is submitted that the INS officials generally confirm the identity of a passenger

with that of the information provided in the passport being carried by that passenger. If the INS officials were preventing the criminals from entering the U.S., perhaps the events of the September 11th, would not have happened. And, this is precisely one of the things that the present invention has been devised to do, and would do.

With respect to the use of counterfeit identification to misuse the immigration system, it is submitted that while the use of counterfeit identification in general can be arguably said to exist, such misuse is at most *de minimus* and hardly “well known”, specifically in the immigration context. Even it *arguendo* such “misuse” is well known, it is submitted that it is not tantamount to substantial evidence required under the law.

It is submitted that the Examiner's reliance on the allegedly well known facts is not based on any evidence in the record and therefore lacks substantial evidence support. In re Zurko, supra.

Further, the facts noticed by the Examiner, do not serve only to “fill in the gaps” in an insubstantial manner, but have been used to support substantial evidentiary showings of the claimed limitations. In particular, the Examiner relied on the allegedly well known fact of INS officials obtaining information from passengers, to show motivation to obtain profile information in both automated and non-automated environments. This motivation would allegedly cause one of ordinary skill in the art to modify the Malaysia-Polansky combination to include Oregonian's automated means for obtaining profile information from a user. Likewise, the Examiner relied on the alleged “misuse” in the immigration

environment to modify the Malaysia, Polansky, and Oregonian combination to use blocking feature of Hendry to render the smartcard of the combination inactive, if misuse were detected. These reliances by the Examiner could hardly be said to be “fill in the gaps” and are substantial evidentiary showings. The factual questions of motivation are material to patentability and “could not be resolved on subjective belief and unknown authority.” In re Lee, 277 F. 3d 1338, 61 USPQ 2d 1430, 1434 (Fed. Cir. 2002) (quoting W.L. Gore v. Garlock, Inc., 721 F. 2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983).

Therefore, it is respectfully submitted that the rejections based on the facts noticed by the Examiner are improper under the law and should be withdrawn.

If the Examiner insists on maintaining his rejections, however, he is respectfully requested to provide an affidavit or declaration setting forth the factual statements and explanation to support the finding, as required by 37 CFR § 1.104(d)(2) and MPEP § 2144.03(C).

Claims 2-4, 11-12 and 15-16

Claim 2

It is further respectfully submitted that the subject matter of Claim 2, which further limits Claim 1, is separately and independently patentable for the reasons discussed above in connection with Claim 1, and its lack thereof in the prior art of record.

Claim 3

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It is further respectfully submitted that the subject matter of Claim 3, which further limits Claim 2, is separately and independently patentable for the reasons discussed above in connection with Claims 1 and 2, and its lack thereof in the prior art of record.

Claim 4

It is further respectfully submitted that the subject matter of Claim 4, which further limits Claim 1, is separately and independently patentable for the reasons discussed above in connection with Claim 1, and its lack thereof in the prior art of record.

Claims 11-12

With respect to Claims 11-12, the Examiner asserted that:

[I]t is well known that cards such as driving license and immigration are invalidated following either lapse of predetermined period (i.e., expiration) or an event such as a driving violation, criminal act, expiration of a VISA, and others. The examiner takes Official Notice that immigration cards, driver's licenses, or medical identification cards expire after predetermined periods. Motivation to make use of expiration in the Malaysia combination would have been for the same reason non-electronic versions of these cards are allowed to expire by authorities involved.

See paragraph No. 13, on page 8, of the Final Rejection.

It is respectfully submitted that the Examiner has wrongfully equated the national security card of the claimed invention with, for example, a credit card, driver's license, or other types of cards issued by financial institutions or government entities for a specific type of transaction. For example, a driver's license is typically issued by a state

government as a privilege to drive an automobile. Likewise, a credit card is typically issued by a financial institution for an alternate method of paying for goods or services. Since these types of cards are issued for a specific purpose or grant a specific privilege to the holder, they cannot be substituted for a transaction for which they were not initially issued. For instance, a medical identification card cannot be substituted for a driver's license. In the same manner, a driver's license cannot be used as an alternate mode of paying for goods or services. Such is not the case for the national security card of the present invention, however. The national security card used in the claimed invention applies to all transactions, whether financial or non-financial, whether used for identification or for paying for goods or services. In other words, in the claimed invention, use of the national security card is a prerequisite to any and all transactions with another person, group, or entity in a population. Under the claimed system, the national security card is issued to each person in the population and carries an identifying biometric characteristic and the profile information for the person. More specifically, the cards would be issued based on a person's status in the population. For instance, the persons entering the country on temporary visas, such as foreign students, tourists, temporary foreign workers, etc., would be issued for a prefixed duration (see page 20, paragraph [0045], of the application). Once the term expires, the person would no longer be able to negotiate any transaction with anyone in the population (see page 21, paragraph [0046], of the application). In addition, the card could be invalidated by a government agency, the issuing authority, or other government-authorized entity, if there was a reason to immobilize the cardholder in the

population (see page 20, paragraph [0043], of the application).

It is submitted that none of the cards mentioned by the Examiner either have this capability or are presently issued with this end result in mind. Accordingly, it is respectfully submitted that Claims 11-12 are not obvious over Malaysia and the allegedly well known cards noticed by the Examiner.

Claim 11

It is further respectfully submitted that the subject matter of Claim 11, which further limits Claim 2, is separately and independently patentable for the reasons discussed above in connection with Claims 1 and 2, and its lack thereof in the prior art of record.

Claim 12

It is further respectfully submitted that the subject matter of Claim 12, which further limits Claim 11, is separately and independently patentable for the reasons discussed above in connection with Claim 1, 2 and 11, and its lack thereof in the prior art of record.

Claim 15-16

With respect to Claims 15-16, the Examiner asserted that the multiapplication card of Malaysia, in view of Polansky, could be used in an ATM (Automatic Teller Machine) environment, wherein funds are presented for choice in pre-determined increments, i.e., 20, 40, 60. See paragraph No.15 of the Final Rejection. The Examiner further asserted that:

If the amount of funds available are inadequate for a first amount selected from the menu, the transaction would be obstructed and if a second amount requested during a subsequent visit to the ATM were more than the total amount of funds requested, this transaction would likewise be obstructed.

Id.

It is respectfully submitted that being obstructed to withdraw funds due to insufficient funds in a person's account, is very different from the claimed invention. In particular, in the claimed method, a person is obstructed because his or her identity cannot be verified or crosschecked, or because the data card carried by that person is inactive. No comparison is made between the amount of the transaction and any amount available for withdrawal in that person's account. Any amount of funds in a person's account, available for withdrawal, is totally irrelevant. In the analogy drawn by the Examiner, the transaction is obstructed because insufficient funds are available for withdrawal, not because the person's identity cannot be verified, crosschecked, or if the data card carried by that person has been found to be inactive, as in the present invention.

In addition, as noted in Claim 15, the value of the second or subsequent transaction is lower than the value of the first or previous transaction by a predetermined amount, for example, \$50.00 (Claim 16). The Examiner has provided no evidence indicating such requirement in an ATM environment, or any environment. In re Zurko, supra.

It is further respectfully submitted that Claim 15, which further limits Claim 14, and Claim 16, which further limits Claim 15, are separately and independently patentable for

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the reasons discussed above in connection with Claim 14, and their lack thereof in the prior art of record.

2. Claims 5-10, 13, and 18-20 were rejected under 35 U.S.C. § 103(a) over Computimes Malaysia (8 October 1998) in view of Polansky, Oregonian and Hendry as applied to Claim 4, and further in view of Drexler et al. (U.S. Patent No. 5,457,747).

Claim 5

It is further respectfully submitted that the subject matter of Claim 5, which further limits Claim 4, is separately and independently patentable for the reasons discussed above in connection with Claims 1 and 4, and its lack thereof in the prior art of record.

Claim 6

It is further respectfully submitted that the subject matter of Claim 6, which further limits Claim 5, is separately and independently patentable for the reasons discussed above in connection with Claims 1 and 4-5, and its lack thereof in the prior art of record.

Claim 7

It is further respectfully submitted that the subject matter of Claim 7, which further limits Claim 6, is separately and independently patentable for the reasons discussed above in connection with Claims 1 and 4-6, and its lack thereof in the prior art of record.

Claim 8

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It is further respectfully submitted that the subject matter of Claim 8, which further limits Claim 7, is separately and independently patentable for the reasons discussed above in connection with Claim 1 and 4-7, and its lack thereof in the prior art of record.

Claim 9

It is further respectfully submitted that the subject matter of Claim 9, which further limits Claim 8, is separately and independently patentable for the reasons discussed above in connection with Claims 1 and 4-8, and its lack thereof in the prior art of record.

Claim 10

It is further respectfully submitted that the subject matter of Claim 10, which further limits Claim 9, is separately and independently patentable for the reasons discussed above in connection with Claims 1 and 4-9, and its lack thereof in the prior art of record.

Claim 13

It is further respectfully submitted that the subject matter of Claim 13, which further limits Claim 7, is separately and independently patentable for the reasons discussed above in connection with Claims 1 and 4-7, and its lack thereof in the prior art of record.

Claim 18

It is further respectfully submitted that the subject matter of Claim 18, which further limits Claim 17, is separately and independently patentable for the reasons discussed

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above in connection with Claim 17, and its lack thereof in the prior art of record.

Claim 19

It is further respectfully submitted that the subject matter of Claim 19, which further limits Claim 18, is separately and independently patentable for the reasons discussed above in connection with Claims 17 and 18, and its lack thereof in the prior art of record.

Claim 20

It is further respectfully submitted that the subject matter of Claim 20, which further limits Claim 19, is separately and independently patentable for the reasons discussed above in connection with Claims 17-19, and its lack thereof in the prior art of record.


IX. CONCLUSION

For the foregoing reasons, Appellant's presently claimed invention contains patentable subject matter that may not be properly rejected under 35 U.S.C. §103(a) over Malaysia, Polansky, Oregonian, Hendry, Malaysian 2, and Drexler et al.. Accordingly, this Honorable Board is respectfully requested to reverse the rejections of Claims 1-20.

June 10, 2004
Date

Respectfully submitted,

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Attorney Docket No.: US 1295/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/985,734 Confirmation No.: 4237

Applicant : Catherine A. HAALA

Filed : November 6, 2001

Title : NATIONAL IDENTIFICATION CARD SYSTEM AND
BIOMETRIC IDENTITY VERIFICATION METHOD FOR
NEGOTIATING TRANSACTIONS

TC/A.U. : 2131

Examiner : Ronald BAUM

Docket No. : US 1295/01

Date : June 10, 2004

APPENDIX A

APPENDIX A

Claim 1. A national security method which functions as a prerequisite to a person wishing to negotiate a transaction with another person, group, or entity in a population and selectively obstructing the person from negotiating the transaction, comprising the steps of:

- a) selecting for each person in the population of a country an identifying biometric characteristic unique to that person;
- b) determining profile information of each person in the population;
- c) storing the identifying characteristic and the profile information of each person in the population in individual portable data devices to be carried by respective persons, the data devices including an active status and an inactive status;
- d) storing the identifying characteristic and the profile information of each person in the population collectively at a central location;
- e) determining an identifying biometric characteristic and the profile information of a person wishing to negotiate a transaction from the portable data device carried by the person;
- f) comparing the identifying characteristic and the profile information determined in step e) with the corresponding identifying characteristic and the profile information prestored in step d) for a successful or unsuccessful comparison;

- g) obtaining a portion of the profile information and a biometric characteristic directly from the person in step e);
- h) comparing the identifying characteristic and the profile information obtained in steps e) and g) for a successful or unsuccessful comparison;
- i) determining an active or inactive status of the data device carried by the person in step e);
- j) obstructing the person in step e) from negotiating the transaction if an unsuccessful comparison is indicated in either steps f) or h), or if the status of the data device is determined to be inactive in step i);
- k) notifying an appropriate authority if the status of the data device is determined to be inactive in step i); and
- l) wherein the person in step e) is barred from negotiating any transaction with any person, group, or entity in the population if an unsuccessful comparison is indicated in any of the steps f), h), or i).

Claim 2. The method of Claim 1, further comprising the step of:

- m) further obstructing the person obstructed from negotiating the transaction in step j) from negotiating any subsequent transaction with any other person, group, or entity in the population.

Claim 3. The method of Claim 2, wherein:

the authority comprises a law enforcement authority.

Claim 4. The method of Claim 1, wherein:

the value of the transaction in step e) is at least \$100.00.

Claim 5. The method of Claim 4, wherein:

the biometric characteristic is selected from the group consisting of fingerprint, hand print, retinal scan, and voice sample.

Claim 6. The method of Claim 5, wherein:

the portable data device comprises an electronically, magnetically, electromagnetically, optically, or electrooptically codable card.

Claim 7. The method of Claim 6, wherein:

the profile information includes one or more of name, address, date of birth, country of citizenship, type and duration of immigration visa, passport number and the country of issuance, and criminal record.

Claim 8. The method of Claim 7, wherein:

the transaction comprises a transaction category selected from the group consisting of seeking entry into a country, seeking financial or social assistance from a private or government entity, seeking employment, securing housing, securing goods, securing lodging or boarding, seeking education or training, traveling, and seeking medical assistance.

Claim 9. The method of Claim 8, further comprising the step of:

- m) updating the profile information of the person in step e) obstructed in step j) to include details of the transaction, the details comprising one or more of the following:
 - i) amount of transaction;
 - ii) identity of the person, group, or entity with whom the transaction was being negotiated by the person in step e);
and
 - iii) the category of the transaction.

Claim 10. The method of Claim 9, further comprising the step of:

- m) further updating the profile information of the person in step e) obstructed in step j) to include details of each transaction attempted

to be negotiated by the person subsequent to the transaction in step e).

Claim 11. The method of Claim 2, further comprising the step of:

m) converting the data device to an inactive status upon the occurrence of an event.

Claim 12. The method of Claim 11, wherein:

the event comprises expiration of a pre-fixed duration of time period.

Claim 13. The method of Claim 7, wherein:

the central location comprises a remote location; and

the step f) is carried out by accessing a computer located at the remote location by a wired or wireless communication, or the Internet.

Claim 14. A national security method which functions as a prerequisite to a person wishing to negotiate a second or subsequent transaction with another person, group, or entity in a population, and selectively obstructing the person from negotiating the second or subsequent transaction where the person has been obstructed from negotiating a first transaction, comprising the steps of:

- a) selecting for each person in the population of a country an identifying biometric characteristic unique to that person;
- b) determining profile information of each person in the population;
- c) storing the identifying characteristic and the profile information of each person in the population in individual portable data devices to be carried by respective persons, the data devices including an active status and an inactive status;
- d) storing the identifying characteristic and the profile information of each person in the population collectively at a central location;
- e) determining an identifying biometric characteristic and the profile information of a person wishing to negotiate a second or subsequent transaction from the portable data device carried by the person;
- f) comparing the identifying characteristic and the profile information determined in step e) with the corresponding identifying characteristic and the profile information prestored in step d) for a successful or unsuccessful comparison;
- g) obtaining a portion of the profile information and a biometric characteristic directly from the person in step e);

- h) comparing the identifying characteristic and the profile information obtained in steps e) and g) for a successful or unsuccessful comparison;
- i) determining an active or inactive status of the data device carried by the person in step e);
- j) obstructing the person in step e) from negotiating the second or subsequent transaction if an unsuccessful comparison is indicated in either steps f) or h), or if the status of the data device is determined to be inactive in step i);
- k) notifying an appropriate authority if the status of the data device is determined to be inactive in step i); and
- l) wherein the person in step e) is barred from negotiating any second or subsequent transaction with any person, group, or entity in the population if an unsuccessful comparison is indicated in any of the steps f), h), or i).

Claim 15. The method of Claim 14, wherein:

the value of the first transaction is at least \$150.00; and
the value of the second or subsequent transaction is lower than the value of the first or previous transaction by a predetermined amount.

Claim 16. The method of Claim 15, wherein:

the predetermined amount is \$50.00

Claim 17. A national security system for obstructing a person from negotiating a transaction with another person, group, or entity in a population, comprising:

- a) a national security card to be carried by each person in the population of a country;
- b) said national security card comprising prestored profile information of a person carrying said card and an identifying biometric characteristic unique to that person;
- c) a card reader comprising a biometric scanner;
- d) said card reader including a first processing unit for comparing the biometric characteristic stored on the national security card of a person with the biometric characteristic obtained directly from that person for a successful or unsuccessful comparison;
- e) a remote second processing unit including prestored profile information and an identifying biometric characteristic of each person in the population;
- f) a communication link between said card reader and said second processing unit;

- g) one of said first processing unit and said second processing unit for comparing the profile information and the biometric characteristic stored on the national security card with the profile information and the biometric characteristic prestored on said second processing unit for a successful or unsuccessful comparison;
- h) one of said card reader and said remote processing unit including means for determining the active or inactive status of the national security card and communicating an inactive status to a predetermined authority; and
- i) said card reader including active and inactive indicator for indicating the active or inactive status of the national security card;
- j) whereby an inactive status of the national security card obstructs a person from negotiating any transaction with any person, group, or entity in the population.

Claim 18. The security system of Claim 17, wherein:

said communication link comprises a wired or wireless link, or the Internet.

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Claim 19. The security system of Claim 18, wherein:

the biometric characteristic is selected from the group consisting of
fingerprint, hand print, retinal scan, and voice sample.

Claim 20. The security system of Claim 19, wherein:

the transaction has a value of at least \$100.00.